



United States
Department of
Agriculture

Food and
Consumer
Service

DEC 10 1998

*SFSP
200 re
regional provisions
have been implemented
by 1/99*

Reply to
Attn. of: SFSP-367

Subject: Summer Food Service Program (SFSP) - Implementation
of Public Law 105-336

To: STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas,
(Child Nutrition Programs) Missouri DH, Montana OPI,
Nebraska ED, North Dakota,
South Dakota, Utah and
Wyoming DHSS

Our Headquarters' office sent a copy of their December 3, 1998 memo on the above subject directly to each State Director (copy attached). This was their effort to get this much needed information out to everyone as quickly as possible.

We feel we need to reissue it via this numbered memo, so that we all have a Regional reference point when discussing/reviewing these issues in the future. As you are aware, we cite our Policy Memo numbers in our SFSP index and in our management evaluation review form among other things. Several states have also brought this point up to us, since that is how they, too, organize their policy.

The attachment is exactly what you received from Headquarters. If there are any questions, please contact our staff at (303) 844-0359.

Ann C. DeGroat

ANN C. DEGROAT
Regional Director
Child Nutrition Programs

Attachment

DECEMBER 3, 1998

SUBJECT: Summer Food Service Program (SFSP)
Implementation of Public Law 105-336

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
All States

On October 31, 1998, President Clinton signed the Child Nutrition Reauthorization Act of 1998 (Public Law 105-336). Several provisions in this law affect the administration of SFSP. We intend to publish regulations to implement these provisions as soon as possible. However, except as noted below, these provisions must be implemented in accordance with the statutory effective date. This memorandum provides guidance for State agencies (SA) to use until final rules are published.

DEFINITION OF PRIVATE NONPROFIT ORGANIZATION

Section 105 of Public Law 105-336 includes several amendments to section 13 of the National School Lunch Act (NSLA, 42 U.S.C. 1761) that affect the conditions which private nonprofit organizations must meet to qualify as program sponsors. With additional training and monitoring, experienced private nonprofit organization sponsors have performed satisfactorily. Recognizing that there are many unserved and underserved areas, especially rural areas, where private nonprofit organizations are the only sponsors available to serve needy children, the law makes these important changes in an effort to improve program access and performance:

1. Modifying limits on the numbers of sites and children served
Section 105(a) inserted a new section 13(a)(7)(B)(i) into the NSLA (42 U.S.C. 1761(a)(7)(B)(i)) to allow private nonprofit organization sponsors to be approved to operate up to 25 sites, regardless of the locations of the sites (i.e., urban or rural). The law retains the current limit on the number of children who may be served each day at any one site (i.e., not more than 300 children or, not more than 500 children, with a waiver granted by the SA). However, the total daily attendance for all sites operated by a private nonprofit organization sponsor will no longer be capped at 2,500 children. These changes are intended to improve program participation and help eligible sponsors reach more needy children.
2. Allowing the purchase of meals from commercial vendors
Section 105(b) removed section 13(a)(7)(B)(ii) and amended

section 13(l)(1) of the NSLA to allow private nonprofit organization sponsors to purchase meals from commercial vendors. This gives private nonprofit organization sponsors the same flexibility as other types of sponsors, allowing them to prepare their own meals or to purchase unitized meals from schools, public facilities, or commercial vendors. Removing the prohibition on commercial contracting should improve program access in rural areas, where non-commercial food suppliers are sometimes harder to find.

3. Eliminating indication of sponsor interest requirements
Section 105(b) also struck the "indication of interest" requirements in section 13(a)(7)(B)(iii) which restricted private nonprofit organization sponsors to participating in SFSP only in areas where a school food authority (SFA) or government sponsor had not indicated an interest in operating the program, by March 1 of each year.

In removing those barriers to participation by private nonprofit organizations, the Conference Committee has indicated its intention to improve the access low-income children have to nutritious meals during the summer months when they are not in school. In the Conference Report for Public Law 105-336, the Conference Committee also expressed the view that, because of past problems, the performance of private nonprofit organization sponsors must be closely monitored. With our continued emphasis on monitoring, technical assistance, and training, we are confident that the amendments of Public Law 105-336 will encourage successful SFSP participation by private nonprofit organization sponsors. However, the Conference Report emphasizes that the Congressional Committees will reconsider these amendments if there is any evidence of a recurrence of abuses that have occurred in the past.

OFFER VERSUS SERVE AT SFA-OPERATED SITES

The meal planning option of "offer versus serve" has been successfully used by schools to help reduce plate waste and food costs in the school meal programs. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) amended section 13(f)(7) of the NSLA (42 U.S.C. 1761(f)(7)) to make offer versus serve available to SFA sponsors operating SFSP on school premises, to the extent that these sites implement that option during the school year. Section 105(c) of Public Law 105-336 amended section 13(f)(7) to expand the availability of the offer versus serve option to all sites sponsored by an SFA, regardless of the location of those sites.

SINGLE AGREEMENTS/CLAIMS

Section 102(d) amended section 9 of the NSLA (42 U.S.C. 1758) by establishing two requirements with respect to SFAs which administer any combination of the Child Nutrition Programs under the same State administering agency. First, the SA must use a single State/local agreement for all programs operated by the SFA under that SA. This also means that multiple programs operated under an alternate SA must be combined into a single agreement. Moreover, these agreements must be permanent and may be amended as necessary. Secondly, an SA must use a common reimbursement form to claim meals under all of the programs. Previously, single agreements and common claim forms were permitted at SA option for SFAs administering multiple Child Nutrition Programs under a single SA.

We are providing a general waiver for 2 years for this provision as it pertains to claims, because many SAs have insufficient computer resources to make the necessary changes due to the potential difficulties rising from the preparations for the year 2000. We are also providing a waiver of the requirement for single agreements until School Year 1999/2000, because agreements for this school year have already been signed.

Congress intended these provisions to provide both SAs and school districts with additional administrative flexibility. In the Conference Report for Public Law 105-336, the Conference Committee also expressed the view that SAs may conduct consolidated reviews of the school meal programs and the Child and Adult Care Food Program (CACFP) when the school(s) operate all of these programs. Moreover, the Conference Committee stated that, when the same school food service personnel administer the SFSP as well as the school meal programs, the SA need not conduct a review of the summer program in the same year in which the school food service operations have been reviewed and determined to be satisfactory. The Conference Committee expects this flexibility to result in savings at the State level but notes that States may conduct additional reviews when they deem it appropriate.

Finally, to provide an additional measure of flexibility, the Conference Report makes clear that school districts may prepare meals for CACFP and SFSP using whatever approved menu planning option they employ in the school meal programs. CACFP and SFSP regulations already permit this flexibility.

ELIMINATING FEDERAL REQUIREMENTS FOR REGISTERING COMMERCIAL VENDORS

Section 105(b) of Public Law 105-336 removed the Federal requirement for registering food service management companies and the specific standards for the

registration in section 13(l)(2) of the NSLA (42 U.S.C. 1761(l)(2)). However, this amendment allows States discretion to require registration and to implement their own registration procedures, so that SAs that have found this process to be beneficial would be able to continue to require registration. Section 105(b) also removed the requirement in section 13(l)(3) that the Secretary of Agriculture maintain a list of food service management companies that have been seriously deficient while participating in SFSP.

CONSOLIDATING BENEFITS FOR HOMELESS CHILDREN

Section 107(j) of Public Law 105-336 amended sections 13(a)(3)(C) and 17 of the NSLA (42 U.S.C. 1761(a)(3)(C) and 1766 respectively) by transferring authority over SFSP homeless sites to CACFP. The law also abolished the Homeless Children Nutrition Program under section 17B of the NSLA (42 U.S.C. 1766B), and added a new paragraph (q), "Participation by emergency shelters," to section 17 of the NSLA (42 U.S.C. 1766(q)), to consolidate the administration and delivery of benefits to homeless children under a single program. Moving homeless sites from SFSP into CACFP provides an opportunity to deliver important nutrition benefits to children, aged 12 and younger (and certain older children with disabilities and children of migrant workers), year-round. It allows sponsors to serve each eligible child up to three meals or two meals and one supplement, each day. However, teenaged youths living in homeless shelters who would have been eligible for SFSP will not be eligible for CACFP benefits with the exception of the at-risk program.

The amendments affecting benefits to homeless children are effective July 1, 1999. The Department of Agriculture (USDA) will issue a separate memorandum to address implementation of these provisions in the near future.

ADJUSTMENTS TO PROGRAM REIMBURSEMENT RATES FOR CERTAIN STATES AND TERRITORIES

Section 104(a) of Public Law 105-336 amended section 12(f) of the NSLA (42 U.S.C. 1760(f)) to allow adjustments to SFSP rates for sponsors in Alaska and Hawaii and certain other outlying areas. USDA has long had the authority to make these adjustments in the other Child Nutrition Programs. The SAs in Alaska and Hawaii have already demonstrated the higher cost of providing meals in those areas in the context of the other Child Nutrition Programs and USDA has adjusted the Child Nutrition Program rates for those States.

This authority has now been extended to SFSP. Beginning January 1, 1999, SFSP operating and administrative rates will be adjusted upward to reflect the previously documented higher cost of providing meals in Alaska and Hawaii. The adjustments will be announced in the annual SFSP rate notice published in the *Federal Register*.

Regional Directors
State Directors

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**STATE ADMINISTRATIVE EXPENSE (SAE) FUNDING AND STATE
ADMINISTRATIVE FUNDS (SAF)**

Section 202(b) of Public Law 105-336 amended section 7(a)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(6)) by eliminating the previous 10 percent limit on SAE funds and SAF for the SFSP that may be transferred from one program to another. Now, SAs may transfer their SAE funds and SAF among the programs as they deem necessary for efficient administration of the programs.

SUMMARY

We realize there will be a lot of work involved in implementing these provisions, particularly in light of the October 1, 1998, effective date. We will make every effort to get memoranda, notices and regulations out as quickly as possible. As always, we are available to provide you with whatever assistance we can in implementing Public Law 105-336. We look forward to working closely with you to implement these historic changes. We also intend to provide additional guidance in the future, as it is needed.

[SIGNED]

STANLEY C. GARNETT
Director
Child Nutrition Division

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